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September 30, 2008

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FILED/ACCEPTED

SEP 30 2008

Federal Communications Commission  
Office of the Secretary

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## VIA HAND DELIVERY

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W., Room TW-B204  
Washington, DC 20554

Re: Federal-State Joint Board on Universal Service  
CC Docket No. 96-45

Dear Secretary Dortch:

On behalf of St. Lawrence Seaway Cellular Partnership (SAC 159014 for New York) ("St. Lawrence Seaway"), please find attached a redacted, public version of St. Lawrence Seaway's Annual ETC Report under Section 54.209 of the FCC's Rules ("ETC Report"). The attached ETC Report has been marked "**REDACTED – FOR PUBLIC INSPECTION.**"

St. Lawrence Seaway is also submitting, under separate cover, a confidential version of this ETC Report. The confidential version is marked "**CONFIDENTIAL – NOT FOR PUBLIC INSPECTION.**"

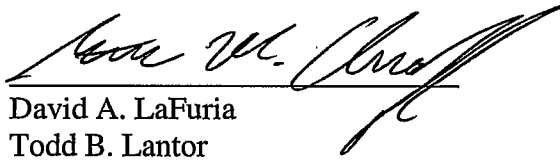
An original and four (4) copies of this ETC Report are enclosed. An additional copy has been provided, which you are requested to date-stamp and return in the envelope provided.

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Marlene H. Dortch  
September 30, 2008  
Page 2

Please contact the undersigned at 703-584-8671 if any questions arise concerning the above-referenced enclosures or if you require any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven M. Chernoff", is written over a horizontal line.

David A. LaFuria  
Todd B. Lantor  
Steven M. Chernoff

Attorneys for:  
*St. Lawrence Seaway Cellular Partnership*

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20054

ORIGINAL

In the Matter of )

Federal-State Joint Board on )  
Universal Service )  
\_\_\_\_\_ )

CC Docket No. 96-45

ANNUAL ETC REPORT OF  
ST. LAWRENCE SEAWAY CELLULAR PARTNERSHIP

St. Lawrence Seaway Cellular Partnership ("St. Lawrence Seaway" or the "Company"), a wireless service provider recently designated as an Eligible Telecommunications Company ("ETC") in the State of New York, hereby provides the Commission with its initial annual compliance filing containing information as set forth in the Commission's *Report and Order* in the above-captioned proceeding ("*ETC Report and Order*").<sup>1</sup>

I. INTRODUCTION

St. Lawrence Seaway was designated as an ETC by order of the FCC effective on August 1, 2008.<sup>2</sup> Because the Company submitted its application for designation under

<sup>1</sup> *Federal-State Joint Board on Universal Service, Report & Order*, 20 FCC Rcd 6371 (2005) ("*ETC Report and Order*"). St. Lawrence Seaway's designation as an ETC carrier became effective on August 1, 2008. Section 54.209(b) of the Commission's rules states that "In order for a common carrier designated under section 214(e)(6) to continue to receive support for the following calendar year, or retain its eligible telecommunications carrier designation, it must submit the annual reporting information in paragraph (a)...annually by October 1 of each year." 47 C.F.R. § 54.209(b). The subject ETC Annual Report is being filed in order for St. Lawrence Seaway to receive support and maintain its ETC designation for calendar year 2009. Nonetheless, St. Lawrence Seaway expects to receive support from August 1, 2008 through the remainder of calendar year 2008. Therefore, to the extent required, the subject ETC Annual Report is also being filed in order for St. Lawrence Seaway to receive support and maintain its ETC designation for the August 1, 2008 through December 31, 2008 timeframe.

<sup>2</sup> *In the Matter of High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, Order*, 23 FCC Rcd. 8834 (2008) ("*Order*"). The *Order* specified an effective date of 30 days after publication in the Federal Register. *See Order* at ¶ 45. Publication occurred on August 1, 2008.

section 214(e)(6) before the effective date of the FCC's new reporting requirements,<sup>3</sup> it is required to file certain information required of new applicants under Sections 54.202(a) of the new rules as part of its first annual ETC report.<sup>4</sup>

The scope of this initial report is, of necessity, limited. Some of the information required in the *Order* would be impractical or impossible to include in this initial report because of the timing of St. Lawrence Seaway's designation barely 60 days before the reporting deadline. Many of those reporting items are based on information that must be gathered over the course of a 12-month period, and depend on the training of personnel and the establishment of tracking systems specific to individual ETC compliance and reporting obligations. For example, the outage reporting requirement in Section 54.209(a)(2) of the Commission's rules differs in key respects from the outage reporting requirements applicable to all carriers,<sup>5</sup> and does not apply to wire centers that were excluded from the St. Lawrence Seaway ETC service area. Moreover, USAC's processing of initial support generally takes 60 to 90 days and the Company has not yet

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<sup>3</sup> Sections 54.202 and 54.209 of the Commission's rules became effective on October 24, 2005, when the Office of Management and Budget published its approval of the information collection provisions contained in those rules. Fed. Reg. Vol. 70, No. 211 at p. 66407.

<sup>4</sup> 47 C.F.R. § 54.202(b) ("Any common carrier that has been designated under section 214(e)(6) as an eligible telecommunications carrier or that has submitted its application for designation under section 214(e)(6) before the effective date of these rules must submit the information required by paragraph (a) of this section no later than October 1, 2006, as part of its annual reporting requirements under section 54.209."). In addition, St. Lawrence Seaway's designation as an ETC carrier became effective on August 1, 2008. To the extent required, the subject Annual Report also covers the period of designation from August 1, 2008 through September 30, 2008.

<sup>5</sup> See *ETC Report and Order*, *supra*, 20 FCC Rcd at 6401 n.194 ("We do not adopt the threshold established in the *Outage Reporting Order* that, for an outage to be included in a report, it must potentially affect 900,000 user minutes of either telephony or associated data. See *Outage Reporting Order*, 19 FCC Rcd at 16925, § 4.9. In particular, we believe that a user minute threshold may be insufficient for the purpose of determining ETC functionality during emergency situations in designated service areas because populations can vary. As a result, we instead require that ETCs report any outages that potentially affect 10% or more of their customers in a designated service area. Unlike the *Outage Reporting Order*, however, we require these reports annually instead of shortly after the outage occurs.")

received any support as of this writing. As a result, funding is not yet available to perform network construction and other improvements that would otherwise be subject to annual reporting.

Therefore, this report is appropriately focused on providing the Commission with detailed plans on its proposed use of high-cost support for network construction and other service quality improvements in its ETC service area. The Company also provides its initial report on its ability to function in emergencies, as well as a demonstration that it offers a local usage plan comparable to ILEC offerings, and a certification that it is a signatory to and complies with the CTIA Consumer Code for Wireless Service ("CTIA Code"). This report also certifies that the Company will follow a series of enumerated steps in response to consumer requests for service. Finally, as required by the Commission's rules, St. Lawrence Seaway provides a certification acknowledging that it may be required to provide equal access in certain circumstances.

## **II. REPORTING ITEMS**

### **A. Five-Year Service Quality Improvement Plan.**

Pursuant to the *ETC Report and Order*, an ETC must "submit... progress reports on the ETC's five-year service quality improvement plan, including maps detailing progress towards meeting its plan targets, an explanation of how much universal service support was received and how support was used to improve signal quality, coverage, or capacity; and an explanation regarding any network improvement targets that have not been fulfilled."<sup>6</sup> Carriers that have not previously filed five-year service quality

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<sup>6</sup> See *ETC Report and Order*, *supra*, 20 FCC Rcd at 6400.

improvement plans are required to do so in their first annual report.<sup>7</sup> St. Lawrence Seaway provides its five-year plan in Exhibit A,<sup>8</sup> which includes a listing of the locations of new cell sites St. Lawrence Seaway proposes to build over the next five years, along with the wire centers that are likely to receive increased capacity and coverage as a result of the proposed improvements.

Based on USAC's latest projections, St. Lawrence Seaway expects to receive an estimated [REDACTED] per year in federal high-cost support under the competitive ETC ("CETC") cap currently in effect. St. Lawrence Seaway will invest all such support in cell site construction, capacity upgrades, and other network improvements to increase access and coverage in rural areas, as well as ongoing operating and maintenance expenses of USF-supported infrastructure. As described in Exhibit A, St. Lawrence Seaway's five-year service quality improvement plan envisions the expenditure of approximately [REDACTED] on network improvements and associated expenses that it would not undertake otherwise.

The proposed expenditures are over and above ordinarily budgeted improvements, and the Company does not expect that it would undertake any of the listed improvements for several years in the absence of high-cost support from the USF. St. Lawrence Seaway believes that every wire center in its ETC service area could benefit from service quality improvements made with high cost support. However, because St. Lawrence Seaway is limited to the per-line support available in the areas it serves – and may not simply submit its USF expenditures for reimbursement – St. Lawrence Seaway will not have

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<sup>7</sup> See *id.* n.191.

<sup>8</sup> This information is also proprietary and competitively sensitive; therefore, it is also being submitted under seal and is subject to St. Lawrence Seaway's request for confidential treatment.

sufficient support to undertake all desired improvements in every wire center within the next five years. An explanation of the proposed service quality improvements planned with high cost support is included in Exhibit A.

The selection of these projects set forth in Exhibit A is based on St. Lawrence Seaway's evaluation of many factors, including current consumer demand, competitive forces and estimated amounts of universal service support. These and other external factors are not within the St. Lawrence Seaway's control and are subject to change. Such changes may affect the St. Lawrence Seaway's assumptions and calculations of where network facilities could be improved to provide better coverage and service and where current and projected consumer demand may require increased capacity. As these externally-driven changes occur, the St. Lawrence Seaway will reevaluate and modify its estimates for implementing these projects accordingly. The order in which the St. Lawrence Seaway's proposed projects will be undertaken has not been finally determined and may be revised over time. As a result, the content and timing of the projects in Exhibit A is subject to change. Nonetheless, the network improvement plan described in Exhibit A demonstrates St. Lawrence Seaway's commitment to use federal high-cost support to make measurable improvements in coverage and capacity for consumers throughout its ETC service area, and to update the Commission on its progress every year prior to being recertified.

**B. Outage Reporting.**

Under the annual reporting rules adopted in the *ETC Report and Order*, an ETC must report any outages of at least 30 minutes in duration on the facilities it owns, operates, leases, or otherwise utilizes that potentially affect at least ten percent of the end

users served in its designated service area.<sup>9</sup> As discussed *supra*, the Company is precluded from providing the relevant report for the previous 12 months due to the timing of its ETC grant.

**C. Service Requests.**

The FCC's annual ETC reporting rules require carriers to report the "number of requests for service from potential customers within the eligible telecommunications carrier's service areas that were unfulfilled during the past year" and to describe the steps taken to attempt to provide service.<sup>10</sup> As discussed *supra*, the Company is precluded from reporting the specified information for the previous 12 months due to the timing of its ETC grant.

However, St. Lawrence Seaway hereby certifies that it will follow the six-step process for provisioning service to requesting customers set forth in the FCC's rules. As a new ETC, the Company is currently putting in place the necessary tracking systems and employee training procedures to ensure that the six-step process is followed as set forth in the rules. Specifically, in response to such requests for service at a residence or business, St. Lawrence Seaway will take the following steps:

1. If a request comes from a customer within its existing network, St. Lawrence Seaway will provide service immediately using its standard customer equipment.
2. If a request comes from a customer residing in any area where St. Lawrence Seaway does not provide service, St. Lawrence Seaway will take a series of steps to provide service.

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<sup>9</sup> 47 C.F.R. § 54.209(a)(2).

<sup>10</sup> 47 C.F.R. § 54.209(a)(3).



\* First, it will determine whether the customer's equipment can be modified or replaced to provide acceptable service.

\* Second, it will determine whether a roof-mounted antenna or other network equipment can be deployed at the premises to provide service.

\* Third, it will determine whether adjustments at the nearest cell site can be made to provide service.

\* Fourth, it will determine whether there are any other adjustments to network or customer facilities which can be made to provide service.

\* Fifth, it will explore the possibility of offering the resold service of carriers that have facilities available to that location.

\* Sixth, St. Lawrence Seaway will determine whether an additional cell site, a cell-extender, or repeater can be employed or can be constructed to provide service, and evaluate the costs and benefits of using scarce high-cost support to serve the number of customers requesting service. If there is no possibility of providing service short of these measures, St. Lawrence Seaway will notify the customer and notify the Commission of how many requests for service could not be filled in its next annual certification report. The Commission will retain authority to resolve any customer complaints that St. Lawrence Seaway has refused to respond to a reasonable request for service.

**D. Consumer Complaints.**

As discussed *supra*, the Company is precluded from reporting the specified information for the previous 12 months due to the timing of its ETC grant.

**E. Commitment to CTIA's Consumer Code for Wireless Services.**

In the *ETC Report and Order*, the FCC reiterated that carriers must commit to abide by the CTIA Code.<sup>11</sup> St. Lawrence Seaway is officially listed by the CTIA as having fully implemented and adopted the CTIA Code.<sup>12</sup> In submitting this report St. Lawrence Seaway certifies that it will continue to abide by the CTIA Code, as it may be amended from time to time, for all of its operations in New York.

**F. Ability to Remain Functional in Emergencies.**

Under the rules adopted in the *ETC Report and Order*, an ETC applicant must:

demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.<sup>13</sup>

Once designated, an ETC must certify annually to its emergency functionality.<sup>14</sup>

However, carriers that have not previously filed emergency functionality plans are required to do so in their first annual report.<sup>15</sup>

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<sup>11</sup> Under the CTIA Consumer Code, wireless carriers agree to: (1) disclose rates and terms of service to customers; (2) make available maps showing where service is generally available; (3) provide contract terms to customers and confirm changes in service; (4) allow a trial period for new service; (5) provide specific disclosures in advertising; (6) separately identify carrier charges from taxes on billing statements; (7) provide customers the right to terminate service for changes to contract terms; (8) provide ready access to customer service; (9) promptly respond to consumer inquiries and complaints received from government agencies; and (10) abide by policies for protection of consumer privacy. The CTIA Code can be viewed on the Web at [http://www.wow-com.com/pdf/The\\_Code.pdf](http://www.wow-com.com/pdf/The_Code.pdf).

<sup>12</sup> The list is on CTIA's web site at [http://www.ctia.org/wireless\\_consumers/consumer\\_code/index.cfm](http://www.ctia.org/wireless_consumers/consumer_code/index.cfm).

<sup>13</sup> *ETC Report and Order*, *supra*, 20 FCC Rcd at 6382; 47 C.F.R. § 54.202(a)(2).

<sup>14</sup> *ETC Report and Order*, *supra*, 20 FCC Rcd at 6401; 47 C.F.R. § 54.209(a)(6).

St. Lawrence Seaway is mindful of the importance of ensuring uninterrupted service so that law enforcement and public safety officials, as well as the general public, can make important calls in the event of a hurricane or other emergency. St. Lawrence Seaway hereby certifies that the company is capable to function in emergency situations as defined in the above-referenced *ETC Report and Order*, and provides a detailed plan demonstrating such capability in Exhibit B attached hereto.<sup>16</sup>

**G. Local Usage.**

In the *ETC Report and Order*, the Commission concluded that each ETC must annually certify that it offers at least one local usage plan comparable to the one offered by the incumbent LEC in the service areas for which the applicant seeks designation.<sup>17</sup> In the *ETC Report and Order* on which that requirement was based, FCC declined to adopt a specific local usage threshold or require that an applicant match the incumbent's offering. Rather, the FCC concluded that the comparability of rate plans should be evaluated on a case-by-case basis, in consideration of the number of included minutes, the size of the "local" calling area, monthly price, and other factors. As examples, the FCC mentioned that an applicant may offer "a local calling plan that has a different calling area than the local exchange area provided by the LECs in the same region, or . . . a specified number of free minutes of service within the local service area."<sup>18</sup> The FCC

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<sup>15</sup> See *ETC Report and Order*, *supra*, 20 FCC Rcd at 6401 n.197.

<sup>16</sup> This information is also proprietary and competitively sensitive; therefore, it is also being submitted under seal and is subject to St. Lawrence Seaway's request for confidential treatment.

<sup>17</sup> See *ETC Report and Order*, *supra*, 20 FCC Rcd at 6385; 47 C.F.R. § 54.209(a)(7).

<sup>18</sup> See *ETC Report and Order*, *supra*, 20 FCC Rcd at 6385.

also envisioned cases where an applicant may offer an unlimited calling plan that bundles local minutes with long distance minutes.<sup>19</sup>

St. Lawrence Seaway satisfies the FCC's local usage requirement in that consumers may choose from a variety of plans with different combinations of minutes (with one plan offering unlimited minutes), and monthly rates, to suit individual consumer needs. With the ability to choose rate plans that meet their calling patterns and preferences, St. Lawrence Seaway's customers have the ability to select at least one rate plan that offers comparable or better value than the rate plans of the ILECs in the same areas.

St. Lawrence Seaway's rate plans offer comparable or better value to consumers than those offered by the ILECs in its proposed ETC service area. For example, St. Lawrence Seaway's Nationwide 450 Plan offers 450 minutes of calling that allow customers to make calls or travel beyond any local calling area without incurring toll or roaming charges. The plan is available for a monthly price of \$39.99. In addition, St. Lawrence Seaway's Nationwide 900 Plan offers 900 nationwide minutes for a monthly price of \$59.99.

The rate plans described above demonstrate that St. Lawrence Seaway's service offerings allow consumers to select a plan that provides them with equal or greater value than a wireline rate plan. The service area associated with the rate plans are much larger than rural ILEC local calling areas, which typically allow a consumer to reach only a few hundred or a few thousand people within an area made up of a handful of exchanges. Consumers that travel more or make many calls to relatives or business associates will

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<sup>19</sup> *Id.*

benefit from the above plans. Providing deeper geographic reach delivers a significant benefit to the consumer, and the FCC has cited studies concluding that "wireless service is cheaper than wireline, particularly if one is making a long distance call or when traveling."<sup>20</sup>

In sum, St. Lawrence Seaway certifies that it offers at least one plan that is comparable to ILEC rate plans under the applicable FCC test.

**H. Equal Access.**

As required of ETCs designated by the FCC under the *ETC Report and Order*,<sup>21</sup> St. Lawrence Seaway acknowledges that the FCC may require it to provide equal access to interexchange carriers in the event no other ETC is providing equal access in the designated ETC service area.

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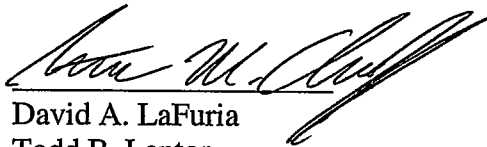
<sup>20</sup> *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report & Analysis of Competitive Market Conditions with Respect to Commercial Mobile Servs., Ninth Report*, 19 FCC Rcd. 20597, 20684, para. 214 (2004) ("*Ninth CMRS Competition Report*").

<sup>21</sup> *See ETC Report and Order, supra*, 20 FCC Rcd at 6386.

**REDACTED - FOR PUBLIC INSPECTION**

We trust that you will find this to be responsive to the compliance materials requested in the *ETC Report and Order* and St. Lawrence Seaway's ETC designation order.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David A. LaFuria", is written over a horizontal line.

David A. LaFuria

Todd B. Lantor

Steven M. Chernoff

Lukas, Nace, Gutierrez & Sachs

1650 Tysons Blvd., Suite 1500

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Attorneys for:

*St. Lawrence Seaway Cellular Partnership*

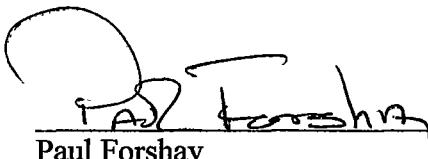
Dated: September 30, 2008

**DECLARATION UNDER PENALTY OF PERJURY**

I, Paul Forshay, do hereby declare under penalty of perjury as follows:

1. I am the Chairman of St. Lawrence Seaway Cellular Partnership.
2. This Affidavit is submitted in support of St. Lawrence Seaway Cellular Partnership's Annual Compliance Filing and Request for Recertification, pursuant to *Report and Order In the Matter of the Federal-State Joint Board on Universal Service*, FCC 05-46 (rel. March 17, 2005) and Sections 54.202 and 54.209 of the FCC's Rules.
3. I declare under penalty of perjury that the statements contained in the foregoing Annual Compliance Filing are true and correct to the best of my knowledge, information and belief.

Executed on September 26<sup>th</sup>, 2008

  
\_\_\_\_\_  
Paul Forshay

Chairman  
St. Lawrence Seaway Cellular Partnership

**SUBSCRIBED, SWORN TO AND ACKNOWLEDGED** before me this 26 day of  
September, 2008.

JOANN WHITE  
Notary Public of New Jersey  
My Commission Expires May 24, 2011

**My Commission Expires:** \_\_\_\_\_

  
\_\_\_\_\_  
**NOTARY PUBLIC**

**REDACTED – FOR PUBLIC INSPECTION**

**Exhibit A**

**Five-Year Quality Service Improvement Plan**

**THIS EXHIBIT IS WITHHELD AS THE FILER  
HAS REQUESTED CONFIDENTIAL TREATMENT**



**REDACTED – FOR PUBLIC INSPECTION**

**Exhibit B**

**Emergency Functionality Report**

**THIS EXHIBIT IS WITHHELD AS THE FILER  
HAS REQUESTED CONFIDENTIAL TREATMENT**